

1 **PLAN SUBMITTER, RPF AND LTO RESPONSIBILITIES, 2000**

2 Proposed Rule Language

3 **TEXT OF MODIFIED REGULATIONS**

4 [Notice circulated June 27, 2000]

5 **Amend § 1035 Plan Submitter Responsibility**

6 The plan submitter, or successor in interest, shall:

7 (a) Ensure that an RPF conducts any activities which require an RPF.

8 (b) Provide the RPF preparing the plan or amendments with complete and
9 correct information regarding pertinent legal rights to, interests in, and
10 responsibilities for land, timber, and access as these affect the planning
11 and conduct of timber operations.

12 (c) Sign the THP certifying knowledge of the plan contents and the
13 requirements of this section.

14 (d) Retain an RPF to provide professional advice regarding the plan,
15 its contents, the Forest Practice Rules, and other associated regulations to
16 the LTO and timberland owner on a continuing basis throughout the timber
17 operations.

18 ~~(d)~~(e) Within five (5) working days of change in RPF responsibilities
19 for THP implementation or substitution of another RPF, file with the Director
20 a notice which states the RPF's name and registration number, address, and
21 subsequent responsibilities for any RPF required fieldwork, amendment
22 preparation, or operation supervision. Corporations need not file
23 notification because the RPF of record on each document is the responsible
24 person.

25 ~~(e)~~(f) Provide a copy of the portions of the approved THP and any
 approved operational amendments to the LTO containing the General
 Information, Plan of Operations, THP Map, Yarding System Map, Erosion Hazard
 Rating Map and any other information deemed by the RPF to be necessary for
 timber operations.

1 ~~(f)~~(g) The plan submitter shall notify the Director prior to
2 commencement of site preparation operations. Receipt of a burning permit is
3 sufficient notice.

4 ~~(g)~~(h) Disclose to the LTO, prior to the start of operations, through
5 an on-the-ground meeting, the location and protection measures for any
6 archaeological or historical sites requiring protection if the RPF has
7 submitted written notification to the plan submitter that the plan submitter
8 needs to provide the LTO with this information.

9
10 **Alternative 1**

11 **Amend § 1035 Plan Submitter Responsibility**

12 The plan submitter, or successor in interest, shall:

13 (a) Ensure that an RPF conducts any activities which require an RPF.

14 (b) Provide the RPF preparing the plan or amendments with complete and
15 correct information regarding pertinent legal rights to, interests in, and
16 responsibilities for land, timber, and access as these affect the planning
and conduct of timber operations.

17 (c) Sign the THP certifying knowledge of the plan contents and the
18 requirements of this section.

19 ~~(d)(1) Retain an RPF to provide professional advice to the LTO and~~
20 ~~timberland owner on a continuing basis throughout the active timber~~
21 ~~operations regarding:~~

22 A) the plan,

23 B) its contents,

24 C) the Forest Practice Rules, and

25 D) other associated regulations pertaining to timber operations to the
~~LTO and timberland owner on a continuing basis throughout the timber~~
~~operations.~~

1 (2) The plan submitter may waive the requirement to retain an RPF to
2 provide professional advice to the LTO and timberland owner under the
3 following conditions:

4 (A) the plan submitter provides authorization to the timberland owner
5 to provide advice to the LTO on a continuing basis throughout the active
6 timber operations provided that the timberland owner is a natural person who
7 personally performs the services of a professional forester and such services
8 are personally performed on lands owned by the timberland owner;

9 (B) the timberland owner agrees to be present on the harvest area at a
10 sufficient frequency to know the progress of operations and advise the LTO,
11 but not less than once during the life of the plan; and

12 (C) the plan submitter agrees to provide a copy of the portions of the
13 approved THP and any approved operational amendments to the timberland owner
14 containing the General Information, Plan of Operations, THP Map, Yarding
15 System Map, Erosion Hazard Rating Map and any other information deemed by the
16 timberland owner to be necessary for providing advice to the LTO regarding
17 timber operations.

18 (3) All agreements and authorizations required under 14 CCR §
19 1035(d)(2) shall be documented and provided in writing to the Director to be
20 included in the plan.

21 ~~(d)~~(e) Within five (5) working days of change in RPF responsibilities
22 for THP implementation or substitution of another RPF, file with the Director
23 a notice which states the RPF's name and registration number, address, and
24 subsequent responsibilities for any RPF required fieldwork, amendment
25 preparation, or operation supervision. Corporations need not file

notification because the RPF of record on each document is the responsible person.

~~(e)~~(f) Provide a copy of the portions of the approved THP and any approved operational amendments to the LTO containing the General Information, Plan of Operations, THP Map, Yarding System Map, Erosion Hazard Rating Map and any other information deemed by the RPF to be necessary for timber operations.

~~(f)~~(g) ~~The plan submitter shall n~~Notify the Director prior to commencement of site preparation operations. Receipt of a burning permit is sufficient notice.

~~(g)~~(h) Disclose to the LTO, prior to the start of operations, through an on-the-ground meeting, the location and protection measures for any archaeological or historical sites requiring protection if the RPF has submitted written notification to the plan submitter that the plan submitter needs to provide the LTO with this information.

Note: Authority cited: Sections 4551 and 4552, Public Resources Code.

Reference: Sections 757, 4582 and 4582.5, Public Resources Code.

Amend § 1035.1 Registered Professional Forester Responsibility

(a) Upon submission of a THP, the Registered Professional Forester (RPF) who prepares and signs a plan is responsible for the accuracy and completeness of its contents. The responsible RPF ~~preparing the plan~~ shall:

(1) Disclose to the timberland owner, timber owner, and plan submitter any current or pending financial interest the RPF has with regard to the LTO, plan submitter, timberland owner, timber owner, and timber purchaser, in

1 regard to the timber or land that is subject of the plan. Disclosure shall
2 be required as long as an RPF has responsibilities relative to a plan. The
3 disclosure shall include identification of the real party of interest for
4 whom the RPF is providing professional forestry services.

5 ~~(a)~~(2) State in the THP the work which will be performed by the RPF
6 plan preparer (beyond preparation of the THP and attending the pre-harvest
7 inspection if requested by the Director), and any additional work requiring
8 an RPF which the plan preparer does not intend to perform. This may include,
9 but is not limited to, field work in identifying watercourse and lake
10 protection zones or special treatment areas, marking trees, or other
11 activities. The RPF is only responsible for the activities set forth in the
12 plan when employed for that purpose, or required by the rules of the Board.
13 The RPF shall state whether or not he or she has been retained to provide
14 professional advice throughout the timber operations.

15 ~~(b)~~(3) In writing, inform the plan submitter(s) of their responsibility
16 pursuant to Section 1035 of this Article, and the timberland owner(s) of
17 their responsibility for compliance with the requirements of the Act and
18 where applicable, Board rules regarding site preparation, stocking, and
19 maintenance of roads, landings, and erosion control facilities.

20 (b) An RPF retained by the plan submitter to provide professional
21 advice throughout the timber operations shall:

22 (1) Be present, or ensure that the RPF's supervised designee is
23 present, on the harvest area at a sufficient frequency to know the progress
24 of operations and advise the LTO and timberland owner, but not less than once
25 during the life of the plan.

1 (2) Be authorized by the plan submitter, timberland owner (if a plan
2 signatory), and the LTO, in writing and made part of the plan, to require the
3 LTO to stop active timber operations if the RPF determines that work stoppage
4 is needed to remediate or prevent imminent resource damage or to prevent
5 substantial deviation from the plan. The work stoppage shall be of
6 sufficient duration to remedy the condition that resulted in the work
7 stoppage. Nothing in this chapter shall authorize the RPF to direct or
8 otherwise control the operation, employees, or any subcontractor of the LTO.

9 (3) Inform the LTO of potential adverse environmental impacts and the
10 mitigation measures to be taken to minimize such impacts.

11

12 **Alternative 1**

13 **Amend § 1035.1 Registered Professional Forester Responsibility**

14 (a) Upon submission of a THP, the Registered Professional Forester
15 (RPF) who prepares and signs a plan is responsible for the accuracy and
16 completeness of its contents.—The responsible RPF preparing the plan shall:

17 (1) Disclose to the timberland owner, timber owner, and plan submitter
18 any current or pending financial interest the RPF has with regard to the LTO,
19 plan submitter, timberland owner, timber owner, and timber purchaser, in
20 regard to the timber or land that is subject of the plan. Disclosure shall
21 be required as long as an RPF has responsibilities relative to a plan. The
22 disclosure shall include identification of the real party of interest for
23 whom the RPF is providing professional forestry services.

24 (a)(2)(1) The RPF preparing the plan shall state in the THP the work
25 which will be performed by the RPF plan preparer (beyond preparation of the
THP and attending the pre-harvest inspection if requested by the Director),

1 and any additional work requiring an RPF which the plan preparer does not
2 intend to perform. This may include, but is not limited to, field work in
3 identifying watercourse and lake protection zones or special treatment areas,
4 marking trees, or other activities. The RPF is only responsible for the
5 activities set forth in the plan when employed for that purpose, or required
6 by the rules of the Board. The RPF shall state whether or not he or she has
7 been retained to provide professional advice throughout the timber
8 operations.

9 ~~(b)(3)~~(2) The RPF preparing the plan shall ~~in~~ writing, inform the plan
10 submitter(s) of their responsibility pursuant to Section 1035 of this
11 Article, and the timberland owner(s) of their responsibility for compliance
12 with the requirements of the Act and where applicable, Board rules regarding
13 site preparation, stocking, and maintenance of roads, landings, and erosion
14 control facilities.

15 (b) Upon entering into an agreement to accept responsibility for any
16 part of the preparation of a plan or any work beyond the preparation of a
17 plan, including providing professional advice; all responsible RPFs shall
18 disclose to the timberland owner, timber owner, and plan submitter any
19 current potential conflict of interest the RPFs have with regard to the plan
20 submitter, timberland owner, timber owner and if known, the LTO and timber
21 purchaser, in regard to the timber or land that is subject to operations
22 under the plan.

23 (c) Disclosure of newly discovered conflicts of interest an RPF has
24 with regard to the plan submitter, timberland owner, timber owner, the LTO
25 and timber purchaser, pertaining to the timber or land that is subject to
operations under the plan, shall be required as long as an RPF has

1 responsibilities relative to a plan. The disclosure shall include
2 identification of the real party of interest for whom the RPF is providing
3 professional forestry services.

4 (d) All disclosures made between an RPF and an affected party pursuant
5 to this section may be kept confidential, but the certification that such
6 disclosure has been made shall be accomplished through the affected parties'
7 signatures on the applicable plan.

8 ~~(b)~~ (e) An RPF retained by the plan submitter to provide professional
9 advice throughout the timber operations shall:~~(1) Be~~ be present, or ensure
10 that the RPF's supervised designee is present, on the harvest area at a
11 sufficient frequency to know the progress of operations and advise the LTO
12 and timberland owner, but not less than once during the life of the plan.

13 ~~(2) Be authorized by the plan submitter, timberland owner (if a plan~~
14 ~~signatory), and the LTO, in writing and made part of the plan, to require the~~
15 ~~LTO to stop active timber operations if the RPF determines that work stoppage~~
16 ~~is needed to remediate or prevent imminent resource damage or to prevent~~
17 ~~substantial deviation from the plan. The work stoppage shall be of~~
18 ~~sufficient duration to remedy the condition that resulted in the work~~
19 ~~stoppage. Nothing in this chapter shall authorize the RPF to direct or~~
20 ~~otherwise control the operation, employees, or any subcontractor of the LTO.~~

21 ~~(3) Inform the LTO of potential adverse environmental impacts and the~~
22 ~~mitigation measures to be taken to minimize such impacts.~~

23 (f) An RPF retained by the plan submitter to provide professional
24 advice throughout the timber operations shall inform the LTO during
25 operations of any mitigation measures incorporated into the plan that are
intended to address operations that have a high likelihood of resulting in

1 immediate, significant and long-term harm to the natural resources of the
2 State if such mitigation measures are not strictly applied to minimize such
3 impacts.

4 (g) If after a field inspection of an active plan, the responsible RPF
5 is unable to effectively advise the LTO about measures needed to remediate or
6 prevent imminent resource damage or to prevent substantial deviation from the
7 plan, the RPF may withdraw from the plan. The RPF shall promptly notify in
8 writing the LTO, the timberland owner, the timber owner, the plan submitter,
9 and the Department of the decision to withdraw professional services from the
10 plan, and the specific cause that prompted the decision. Upon receipt of
11 such written notice, the LTO or on-site designated representative shall cease
12 timber operations until the LTO has received written notice from the plan
13 submitter that another RPF has visited the plan site and accepts
14 responsibility for providing advice regarding the plan as the RPF of record.

15
16 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
17 Reference: Sections 4583 and 4583.5, Public Resources Code.

18 **Amend § 1035.3 Licensed Timber Operator Responsibilities**

19 Each Licensed Timber Operator shall:

20 (a) Sign the plan and major amendments to the plan, or sign and file
21 with the Director a facsimile of such plan or amendments, agreeing to abide
22 by the terms and specifications of the plan. This shall be accomplished
23 prior to commencement or continuation of operations.

24 ~~(a)~~ (b) Inform the responsible RPF or plan submitter, whether in writing
25 or orally, of any site conditions which in the LTO's opinion prevent
implementation of the approved plan including amendments.

1 ~~(b)~~(c) Be responsible for the work of his or her employees and
2 familiarize all employees with the intent and details of the operational and
3 protection measures of the plan and amendments that apply to their work.

4 ~~(e)~~(d) Keep a copy of the applicable approved plan and amendments
5 available for reference at the site of active timber operations. The LTO is
6 not required to possess any confidential addenda to the plan such as the
7 Confidential Archaeological Addendum, nor is the LTO required to keep a copy
8 of such confidential plan addenda at the site of active timber operations.

9 ~~(d)~~(e) Comply with all provisions of the Act, Board rules and
10 regulations, the applicable approved plan and any approved amendments to the
11 plan.

12 ~~(e)~~(f) In the event that the LTO executing the plan was not available
13 to attend the on-site meeting to discuss archaeological site protection with
14 the RPF or supervised designee familiar with on-site conditions pursuant to
15 Section 929.2 [949.2, 969.2] (b), it shall be the responsibility of the LTO
16 executing the plan to inquire with the plan submitter, timberland owner, or
17 their authorized agent, RPF who wrote the plan, or the supervised designee
18 familiar with on-site conditions, in order to determine if any mitigation
19 measures or specific operating instructions are contained in the Confidential
20 Archaeological Addendum or any other confidential addendum to the plan.

21 (g) Provide the RPF responsible for professional advice throughout the
22 timber operations an on-site contact employee authorized by the LTO to
23 receive RPF advice and to stop active timber operations, if requested to do
24 so by the RPF.

1 **Alternative 1**

2 **Amend § 1035.3 Licensed Timber Operator Responsibilities**

3 Each affected Licensed Timber Operator shall:

4 (a) Sign the plan and major amendments to the plan, or sign and file
5 with the Director a facsimile of such plan or amendments, agreeing to abide
6 by the terms and specifications of the plan. This shall be accomplished
7 prior to ~~commencement or continuation of operations~~ implementation of the
8 following; which the affected LTO has responsibility for implementing:

9 1) those operations listed under the plan and

10 2) those operations listed under any amendments proposing substantial
11 deviations from the plan.

12 ~~(a)~~(b) Inform the responsible RPF or plan submitter, whether in writing
13 or orally, of any site conditions which in the LTO's opinion prevent
14 implementation of the approved plan including amendments.

15 ~~(b)~~(c) Be responsible for the work of his or her employees and
16 familiarize all employees with the intent and details of the operational and
17 protection measures of the plan and amendments that apply to their work.

18 ~~(c)~~(d) Keep a copy of the applicable approved plan and amendments
19 available for reference at the site of active timber operations. The LTO is
20 not required to possess any confidential addenda to the plan such as the
21 Confidential Archaeological Addendum, nor is the LTO required to keep a copy
22 of such confidential plan addenda at the site of active timber operations.

23 ~~(d)~~(e) Comply with all provisions of the Act, Board rules and
24 regulations, the applicable approved plan and any approved amendments to the
25 plan.

1 ~~(e)~~(f) In the event that the LTO executing the plan was not available
2 to attend the on-site meeting to discuss archaeological site protection with
3 the RPF or supervised designee familiar with on-site conditions pursuant to
4 Section 929.2 [949.2, 969.2] (b), it shall be the responsibility of the LTO
5 executing the plan to inquire with the plan submitter, timberland owner, or
6 their authorized agent, RPF who wrote the plan, or the supervised designee
7 familiar with on-site conditions, in order to determine if any mitigation
8 measures or specific operating instructions are contained in the Confidential
9 Archaeological Addendum or any other confidential addendum to the plan.

10 (g) Provide the RPF responsible for professional advice throughout the
11 timber operations an on-site contact employee authorized by the LTO to
12 receive RPF advice and to stop active timber operations, if requested to do
13 so by the RPF.

14 (h) Keep the RPF responsible for professional advice throughout the
15 timber operations advised of the status of timber operation activity.

16 (1) Within five days before, and not later than the day of the start-up
17 of a timber operation, the LTO shall notify the RPF of the start of timber
18 operations.

19 (2) Within five days before, and not later than the day of the shutdown
20 of a timber operation, the LTO shall notify the RPF of the shutdown of timber
21 operations.

22 (A) The notification of the shutdown of timber operations is not
23 required if the period of the shutdown does not extend beyond a weekend,
24 including a nationally designated legal holiday.

1 Note: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code.
2 Reference: Sections 4528.5 and 4571, Public Resources Code.

3 **Amend § 1037 THP Preharvest Inspection-Filing Return**

4 Within ten (10) days of the receipt of a plan, the Director shall
5 determine if the plan is accurate, complete and in proper order, and if so,
6 the plan shall be filed. During this same period, the Director shall
7 determine if a preharvest inspection is necessary. When the Director finds a
8 plan inaccurate, incomplete, or otherwise not in proper order, the plan shall
9 be returned to the submitter with written specifications of the deficiencies.

10 If a preharvest inspection is to be held, the LTO who will operate
11 under the plan, if known, shall be invited to participate.

12
13 Note: Authority cited: Sections 4551, 4551.5, 4552, 4582.7 and 21080.5,
14 Public Resources Code; *NRDC v. Arcata National Corp.* (1976), 50 Cal. App. 3d
15 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and
16 21092, Public Resources Code.

16 **Amend § 1092.11 PTHP Submitter Responsibility**

17 The PTHP submitter, or successor in interest, shall:

18 (a) Ensure that an RPF conducts any activities which require an RPF.

19 (b) Provide the RPF preparing the PTHP or amendments with complete and
20 correct information regarding pertinent legal rights to, interests in, and
21 responsibilities for land, timber, and access as these affect the planning
22 and conduct of timber operations.

23 (c) Sign the PTHP certifying knowledge of it's contents and the
24 requirements of this section.

25 (d) Retain an RPF to provide professional advice regarding the plan,
its contents, the Forest Practice Rules, and other associated regulations to
the LTO and timberland owner on a continuing basis throughout the timber
operations.

1 ~~(d)~~(e) Within five (5) working days of change in RPF responsibilities
2 for PTHP implementation or substitution of another RPF, file with the
3 Director a notice which states the RPF's name and registration number,
4 address, and subsequent responsibilities for any RPF required field work,
5 amendment preparation, or operation supervision. Corporations need not file
6 notification because the RPF of record on each document is the responsible
7 person.

8 ~~(e)~~(f) Provide a copy of the approved PTHP and any amendments to the
9 LTO.

10 ~~(f)~~(g) Notify the Director prior to commencement of site preparation
11 operations. Receipt of a burning permit is sufficient notice.
12

13 **Alternative 1**

14 **Amend § 1092.11 PTHP Submitter Responsibility**

15 The PTHP submitter, or successor in interest, shall:

16 (a) Ensure that an RPF conducts any activities which require an RPF.

17 (b) Provide the RPF preparing the PTHP or amendments with complete and
18 correct information regarding pertinent legal rights to, interests in, and
19 responsibilities for land, timber, and access as these affect the planning
20 and conduct of timber operations.

19 (c) Sign the PTHP certifying knowledge of ~~it's~~ its contents and the
20 requirements of this section.

21 ~~(d)~~(1) Retain an RPF to provide professional advice to the LTO and
22 timberland owner on a continuing basis throughout the active timber
23 operations regarding:

24 A) the plan,

25 B) its contents,

C) the Forest Practice Rules, and

1 D) other associated regulations pertaining to timber operations to the
2 LTO and timberland owner on a continuing basis throughout the timber
3 operations.

4 (2) The plan submitter may waive the requirement to retain an RPF to
5 provide professional advice to the LTO and timberland owner under the
6 following conditions:

7 (A) the plan submitter provides authorization to the timberland owner
8 to provide advice to the LTO on a continuing basis throughout the active
9 timber operations provided that the timberland owner is a natural person who
10 personally performs the services of a professional forester and such services
11 are personally performed on lands owned by the timberland owner;

12 (B) the timberland owner agrees to be present on the harvest area at a
13 sufficient frequency to know the progress of operations and advise the LTO,
14 but not less than once during the life of the plan; and

15 (C) the plan submitter agrees to provide a copy of the portions of the
16 approved PTHP and any approved operational amendments to the timberland owner
17 containing the General Information, Plan of Operations, PTHP Map, Yarding
18 System Map, Erosion Hazard Rating Map and any other information deemed by the
19 timberland owner to be necessary for providing advice to the LTO regarding
20 timber operations.

21 All agreements and authorizations required under 14 CCR § 1035(d)(2)
22 shall be documented and provided in writing to the Director to be included in
23 the plan.

24 ~~(d)~~(e) Within five (5) working days of change in RPF responsibilities
25 for PTHP implementation or substitution of another RPF, file with the
Director a notice which states the RPF's name and registration number,

1 address, and subsequent responsibilities for any RPF required field work,
2 amendment preparation, or operation supervision. Corporations need not file
3 notification because the RPF of record on each document is the responsible
4 person.

5 ~~(e)~~(f) Provide a copy of the approved PTHP and any amendments to the
6 LTO.

7 ~~(f)~~(g) Notify the Director prior to commencement of site preparation
8 operations. Receipt of a burning permit is sufficient notice.

9 (h) Disclose to the LTO, prior to the start of operations, through an
10 on-the-ground meeting, the location and protection measures for any
11 archaeological or historical sites requiring protection if the RPF has
12 submitted written notification to the plan submitter that the plan submitter
13 needs to provide the LTO with this information.

14
15 Note: Authority cited: Sections 4551 and 4582 ~~452~~, Public Resources Code.

16 Reference: Sections 4582 and 4582.5, Public Resources Code.

17
18 **Amend § 1092.12 Registered Professional Forester Responsibility**

19 (a) Upon submission of a PTHP, the RPF who prepares and signs a PTHP is
20 responsible for the accuracy and completeness of its contents. The
21 responsible RPF shall:

22 (1) Disclose to the timberland owner, timber owner, and plan submitter
23 any current or pending financial interest the RPF has with regard to the LTO,
24 plan submitter, timberland owner, timber owner, and timber purchaser, in
25 regard to the timber or land that is subject of the plan. Disclosure shall
be required as long as an RPF has responsibilities relative to a plan. The

1 disclosure shall include identification of the real party of interest for
2 whom the RPF is providing professional forestry services.

3 ~~(b) The RPF preparing the PTHP shall~~ (2) list or describe in the PTHP
4 any work which will be performed by the PTHP preparer and any additional work
5 requiring an RPF which the PTHP preparer does not intend to perform. This
6 may include, but is not limited to, field work in identifying watercourse and
7 lake protection zones or special treatment areas, marking trees, or other
8 activities. The RPF is only responsible for the activities for which he or
9 she is employed, or those required by the rules of the Board. The RPF shall
10 state whether or not he or she has been retained to provide professional
11 advice throughout the timber operations.

12 ~~(c) The RPF preparing the PTHP shall,~~ (3) in writing, inform the PTHP
13 submitter(s) of their responsibility pursuant to Section 1092.11 of this
14 Article and the timberland owner(s) of their responsibility for compliance
15 with the requirements of the Act and, where applicable, Board rules regarding
16 site preparation, stocking, and maintenance of roads, landings, and erosion
17 control facilities.

18 (b) An RPF retained by the plan submitter to provide professional
19 advice throughout the timber operations shall:

20 (1) Be present, or ensure that the RPF's supervised designee is
21 present, on the harvest area at a sufficient frequency to know the progress
22 of operations and advise the LTO and timberland owner, but not less than once
23 during the life of the plan.

24 (2) Be authorized by the plan submitter, timberland owner (if a plan
25 signatory), and the LTO, in writing and made part of the plan, to require the
LTO to stop active timber operations if the RPF determines that work stoppage

1 is needed to remediate or prevent imminent resource damage or to prevent
2 substantial deviation from the plan. The work stoppage shall be of
3 sufficient duration to remedy the condition that resulted in the work
4 stoppage. Nothing in this chapter shall authorize the RPF to direct or
5 otherwise control the operation, employees, or any subcontractor of the LTO.

6 (3) Inform the LTO of potential adverse environmental impacts and the
7 mitigation measures to be taken to minimize such impacts.

9 **Alternative 1**

10 **Amend § 1092.12 Registered Professional Forester Responsibility**

11 (a) Upon submission of a PTHP, the RPF who prepares and signs a PTHP is
12 responsible for the accuracy and completeness of its contents. ~~The~~
13 ~~responsible RPF shall:~~

14 ~~(1) Disclose to the timberland owner, timber owner, and plan submitter~~
15 ~~any current or pending financial interest the RPF has with regard to the LTO,~~
16 ~~plan submitter, timberland owner, timber owner, and timber purchaser, in~~
17 ~~regard to the timber or land that is subject of the plan. Disclosure shall~~
18 ~~be required as long as an RPF has responsibilities relative to a plan. The~~
19 ~~disclosure shall include identification of the real party of interest for~~
20 ~~whom the RPF is providing professional forestry services.~~

21 (b) The RPF preparing the PTHP shall ~~(2)~~ list or describe in the PTHP
22 any work which will be performed by the PTHP preparer and any additional work
23 requiring an RPF which the PTHP preparer does not intend to perform. This
24 may include, but is not limited to, field work in identifying watercourse and
25 lake protection zones or special treatment areas, marking trees, or other
activities. The RPF is only responsible for the activities for which he or

1 she is employed, or those required by the rules of the Board. The RPF shall
2 state whether or not he or she has been retained to provide professional
3 advice throughout the timber operations.

4 (c) The RPF preparing the PTHP shall, ~~(3)~~ in writing, inform the PTHP
5 submitter(s) of their responsibility pursuant to Section 1092.11 of this
6 Article and the timberland owner(s) of their responsibility for compliance
7 with the requirements of the Act and, where applicable, Board rules regarding
8 site preparation, stocking, and maintenance of roads, landings, and erosion
9 control facilities.

10 (d) Upon entering into an agreement to accept responsibility for any
11 part of the preparation of a plan or any work beyond the preparation of a
12 plan, including providing professional advice; all responsible RPFs shall
13 disclose to the timberland owner, timber owner, and plan submitter any
14 current potential conflict of interest the RPFs have with regard to the plan
15 submitter, timberland owner, timber owner and if known, the LTO and timber
16 purchaser, in regard to the timber or land that is subject to operations
17 under the plan.

18 (e) Disclosure of newly discovered conflicts of interest an RPF has
19 with regard to the plan submitter, timberland owner, timber owner, the LTO
20 and timber purchaser, pertaining to the timber or land that is subject to
21 operations under the plan, shall be required as long as an RPF has
22 responsibilities relative to a plan. The disclosure shall include
23 identification of the real party of interest for whom the RPF is providing
24 professional forestry services.

25 (f) All disclosures made between an RPF and an affected party pursuant
to this section may be kept confidential, but the certification that such

1 disclosure has been made shall be accomplished through the affected parties'
2 signatures on the applicable plan.

3 ~~(b)~~(g) An RPF retained by the plan submitter to provide professional
4 advice throughout the timber operations shall:~~(1) Be~~ be present, or ensure
5 that the RPF's supervised designee is present, on the harvest area at a
6 sufficient frequency to know the progress of operations and advise the LTO
7 and timberland owner, but not less than once during the life of the plan.

8 ~~(2) Be authorized by the plan submitter, timberland owner (if a plan~~
9 ~~signatory), and the LTO, in writing and made part of the plan, to require the~~
10 ~~LTO to stop active timber operations if the RPF determines that work stoppage~~
11 ~~is needed to remediate or prevent imminent resource damage or to prevent~~
12 ~~substantial deviation from the plan. The work stoppage shall be of~~
13 ~~sufficient duration to remedy the condition that resulted in the work~~
14 ~~stoppage. Nothing in this chapter shall authorize the RPF to direct or~~
15 ~~otherwise control the operation, employees, or any subcontractor of the LTO.~~

16 ~~(3) Inform the LTO of potential adverse environmental impacts and the~~
17 ~~mitigation measures to be taken to minimize such impacts.~~

18 (h) An RPF retained by the plan submitter to provide professional
19 advice throughout the timber operations shall inform the LTO during
20 operations of any mitigation measures incorporated into the plan that are
21 intended to address operations that have a high likelihood of resulting in
22 immediate, significant and long-term harm to the natural resources of the
23 State if such mitigation measures are not strictly applied to minimize such
24 impacts.

25 (i) If after a field inspection of an active plan, the responsible RPF
is unable to effectively advise the LTO about measures needed to remediate or

1 prevent imminent resource damage or to prevent substantial deviation from the
2 plan, the RPF may withdraw from the plan. The RPF shall promptly notify in
3 writing the LTO, the timberland owner, the timber owner, the plan submitter,
4 and the Department of the decision to withdraw professional services from the
5 plan, and the specific cause that prompted the decision. Upon receipt of
6 such written notice, the LTO or on-site designated representative shall cease
7 timber operations until the LTO has received written notice from the plan
8 submitter that another RPF has visited the plan site and accepts
9 responsibility for providing advice regarding the plan as the RPF of record.

10
11 Note: Authority cited: Sections 4551 and 4552, Public Resources Code.
12 Reference: Sections 4583.2 and 4583.5, Public Resources Code.

13 **Amend § 1092.14 Licensed Timber Operator Responsibilities**

14 Each Licensed Timber Operator shall:

15 (a) Sign the plan and major amendments to the plan, or sign and file
16 with the Director a facsimile of such plan or amendments, agreeing to abide
17 by the terms and specifications of the plan. This shall be accomplished
18 prior to commencement or continuation of operations.

19 ~~(a)~~(b) Inform the responsible RPF and PTHP submitter, either in writing
20 or orally, of any site conditions which in the LTO's opinion prevent
21 implementation of the PTHP.

22 ~~(b)~~(c) Be responsible for the work of his or her employees and
23 familiarize all employees with the intent and details of the operational land
24 protection measures of the PTHP and amendments or minor deviations that apply
25 to their work.

1 ~~(e)~~(d) Keep a copy of the applicable approved PTHP and amendments
2 available for reference at the site of active timber operations.

3 ~~(d)~~(e) Comply with all provisions of the Act, Board rules and
4 regulations, the applicable PTHP and any approved amendments or minor
5 deviations.

6 (g) Provide the RPF responsible for professional advice throughout the
7 timber operations an on-site contact employee authorized by the LTO to
8 receive RPF advice and to stop active timber operations, if requested to do
9 so by the RPF.

10
11 **Alternative 1**

12 **Amend § 1092.14 Licensed Timber Operator Responsibilities**

13 Each affected Licensed Timber Operator shall:

14 (a) Sign the plan and major amendments to the plan, or sign and file
15 with the Director a facsimile of such plan or amendments, agreeing to abide
16 by the terms and specifications of the plan. This shall be accomplished
17 prior to ~~commencement or continuation of operations~~ implementation of the
18 following; which the affected LTO has responsibility for implementing:

19 1) those operations listed under the plan and
20 2) those operations listed under any amendments proposing substantial
21 deviations from the plan.

22 ~~(a)~~(b) Inform the responsible RPF and PTHP submitter, either in writing
23 or orally, of any site conditions which in the LTO's opinion prevent
24 implementation of the PTHP.

25 ~~(b)~~(c) Be responsible for the work of his or her employees and
familiarize all employees with the intent and details of the operational land

1 protection measures of the PTHP and amendments or minor deviations that apply
2 to their work.

3 ~~(e)~~(d) Keep a copy of the applicable approved PTHP and amendments
4 available for reference at the site of active timber operations. The LTO is
5 not required to possess any confidential addenda to the plan such as the
6 Confidential Archaeological Addendum, nor is the LTO required to keep a copy
7 of such confidential plan addenda at the site of active timber operations.

8 ~~(d)~~(e) Comply with all provisions of the Act, Board rules and
9 regulations, the applicable PTHP and any approved amendments or minor
10 deviations.

11 (f) In the event that the LTO executing the plan was not available to
12 attend the on-site meeting to discuss archaeological site protection with the
13 RPF or supervised designee familiar with on-site conditions pursuant to
14 Section 929.2 [949.2, 969.2] (b), it shall be the responsibility of the LTO
15 executing the plan to inquire with the plan submitter, timberland owner, or
16 their authorized agent, RPF who wrote the plan, or the supervised designee
17 familiar with on-site conditions, in order to determine if any mitigation
18 measures or specific operating instructions are contained in the Confidential
19 Archaeological Addendum or any other confidential addendum to the plan.

20 (g) Provide the RPF responsible for professional advice throughout the
21 timber operations an on-site contact employee authorized by the LTO to
22 receive RPF advice and to stop active timber operations, if requested to do
23 so by the RPF.

24 (h) Keep the RPF responsible for professional advice throughout the
25 timber operations advised of the status of timber operation activity.

1 (1) Within five days before, and not later than the day of the start-up
2 of a timber operation, the LTO shall notify the RPF of the start of timber
3 operations.

4 (2) Within five days before, and not later than the day of the shutdown
5 of a timber operation, the LTO shall notify the RPF of the shutdown of timber
6 operations.

7 (A) The notification of the shutdown of timber operations is not
8 required if the period of the shutdown does not extend beyond a weekend,
9 including a nationally designated legal holiday.

10
11 Note: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code.
12 Reference: Sections 4551, 4551.5 and 4582, Public Resources Code.

13 **Amend § 1092.16 PTHP Review Inspection-Filing Return**

14 Within ten (10) days of the receipt of a PTHP, the Director shall
15 determine if the PTHP is accurate, complete and in proper order, and if so,
16 the PTHP shall be filed. During this same period, the Director shall
17 determine if a preharvest inspection is necessary. If a preharvest
18 inspection is needed, the department will notify the submitter, the
19 Department of Fish and Game, ~~and~~ the appropriate Regional Water Control
20 Board, and the LTO who will operate under the plan, if known, to determine if
21 they want to attend and to schedule a mutually agreeable time and date of the
22 inspection consistent with PRC 4582.7. When the Director finds a PTHP
23 inaccurate, incomplete, or otherwise not in proper order, the PTHP shall be
24 returned to the submitter with written specifications of the deficiencies.

Note: Authority cited: Sections 4551, 4551.5, 4552, 4582.7 and 21080.5, Public Resources Code; and *NRDC v. Arcata National Corp.* (1976), 50 Cal. App. 3d 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and 21092, Public Resources Code.

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